



EUROPEAN CENTRAL BANK

LEGAL COMMITTEE

3 November 2003

**Extract from  
Aide-Mémoire 54/03  
FINAL**

**15-16 October 2003  
- Extended composition -**

**1. Follow-up: Public access to ECB documents**

Issue:

In view of the (i) uncontroversial content of the relevant provisions on public access contained in the draft Constitution, (ii) incentive of the ECB to quickly be in line with the basic legal framework of the European institutions following the OLAF judgement and (iii) need to amend the ECB Rules of Procedure (RoP) (tentatively scheduled for the end of this year/early 2004) it was felt that the adoption of the new draft decision on public access should not be unduly delayed, but coincide with the adoption of the amended RoP. In order to allow for an early consideration by LEGCO of the substance of the draft decision, the members of LEGCO were invited to discuss the body of the text of the draft decision during the October meeting.

Summary of discussion

Some members of LEGCO questioned the efficiency of undertaking the exercise at the current stage since the relevant legal basis, the European Constitution and the relevant European law, has not as yet been finally agreed upon and adopted. As the general legal principles are already laid down at the European level and the entry into force of the Constitution will only be in some years time, the majority of members were of the opinion that there would be added value in ensuring

consistency and compliance with the European framework to the extent possible already at the current stage.

Several drafting comments were made and a request was put forward for an analysis of the concepts "administrative tasks" as currently stipulated in the draft Constitution.

An ECB representative explained that although the suggested rule is transparency with certain exceptions, it could not be ensured that the new regime per se would grant wider access to ECB documents. The Committee discussed also the application of the regime to ECB documents held by the NCBs inclusive of the non-participating Member States, without conclusive solutions.

#### Follow-up

The members of LEGCO have three weeks to provide written comments on the documents submitted for the meeting. The dossier will be re-discussed during the LEGCO meeting in December.